IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 327 OF 2005

MR.MUSTAQ AHMED ZAROO,CALANGUTE GOA ....Petitioners

Versus

EDC LTD., AND 2 ORS., ...Respondents

Mr. S. G. Dessai, Senior Advocate with Mr. Bhupesh Prabhu, Advocate for the petitioner.

Mr. M. S. Sonak, Advocate for the respondent No.1.

Coram:- R. M. LODHA &
N. A. BRITTO, JJ.

Date:- 30th August, 2005

P.C.

After hearing Mr. S. G. Dessai, the learned Senior Counsel for the petitioner and Mr. M. S. Sonak, the learned Counsel for the respondent No.1, we are satisfied that this writ petition may be disposed of by the following order. As a matter of fact, we are passing this order as broad consensus appeared during the course of motion hearing. Hence the order :

(1) The petitioner shall be at liberty to remove the moveables including the jewellery, if any, or any part thereof lying in the shop situate on the ground floor of the building "Diyana Holiday Homes", after producing no objection from the Jammu and Kashmir Bank Ltd., Panaji Branch, (Goa).

(2) The suit shop, namely the shop on the ground floor of the building "Diyana Holiday Homes" shall remain attached and shall not be auctioned by the respondent No.1 for a

period of two months from today.

(3) In case the petitioner deposits the sum of Rs.10,00,000/- with the respondent No.1 within a period of two months from today, the respondent No.1 shall hand over possession of the said shop to the petitioner subject to the decision in Regular Civil Suit No.221/2003/D/C.

(4) In case the petitioner fails to deposit the sum of 10,00,000/- with the respodent No.1 within a period of 2 months from today, the respondent No.1 shall be at liberty to proceed with the auction of the said shop and appropriate the prceeds thereof against the outstanding of the respondent No.2.

(5) In case the petitioner succeeds in the suit and the petitioner is held entitled to the said shop in his own right, the amount of Rs.10,00,000/- so deposited by the petitioner with the respondent No.1 shall be refunded to him along with simple interest @ 6 % per annum.

The writ petition is disposed of accordingly.

R. M. LODHA, J.

N. A. BRITTO, J.